

Application Serial No. 10/551,814
Reply to Office Action of June 25, 2008

PATENT
Docket: CU-4433

REMARKS

In the Office Action, dated June 25, 2008, the Examiner states that Claims 1-15 and 19-30 are pending and rejected. By the present Amendment, Applicant amends the claims.

Claims 5-6, 8-10, 12 and 15 are rejected under 35 U.S.C. 112, second paragraph, for the reasons of record.

Specifically, Claims 5 and 9 each contain the phrase, "and/or and," which the Office Action considers to be indefinite. Applicant has deleted this phrase from the claims and as such, respectfully requests withdrawal of the present rejection.

Further, Claim 6 is rejected because the Office Action considers the phrase, "may comprise comprises," renders the claim indefinite. Applicant has amended this claim and as such, respectfully requests withdrawal of the present rejection.

Moreover, Claims 8 and 15 are rejected because the Office Action considers that the phrase "for example" renders them indefinite. Applicant has deleted this phrase from these claims and as such, respectfully requests withdrawal of the present rejection.

Claim 10 is rejected because the Office Action considers that the phrase "such as" renders it indefinite. Applicant has deleted this phrase from Claim 10 and as such, respectfully requests withdrawal of the present rejection.

Finally, Claim 12 is rejected because the Office Action considers that the phrase "wherein any layer/s and/or barrier layer/s at least two of the layers" renders the claim indefinite. Applicant has deleted this phrase from Claim 12 and as such, respectfully requests withdrawal of the present rejection.

Claims 1, 4, 6-8, 11, 14, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Stopper et al. (WO 98/44025) for the reasons of record. Claims 1-15 and 19-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Akao (US 5,234,750) for the reasons of record. Claims 1, 4, 6, 8, 11, 14-15, 21 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by Seabrook et al. (US 5,554,373) for the reasons of record.

With respect to independent Claim 31, Applicant respectfully asserts that Seabrook et al. teaches the use of Vitamin E for providing a controlled release of an antimicrobial agent. The use of Vitamin E is disclosed as controlling bacteria,

Application Serial No. 10/551,814
Reply to Office Action of June 25, 2008

PATENT
Docket: CU-4433

viruses and fungi growth. The film of this reference is disclosed as including the antimicrobial agent and Vitamin E that can protect against microbial infestation.

Seabrook et al. does not disclose a method for preventing oxidative degradation of a packaging object but discloses protecting against microbial infestation. The use of the Vitamin E in Seabrook et al. is disclosed as providing a controlled release of the antimicrobial agent and not as an antioxidant as in the new claim. Moreover, Seabrook et al. is silent with respect to the steps of forming a heat resistance layer. In the Office Action, the Examiner avers to the fact that since the claims do not require a heat resistance layer, this feature cannot be relied upon to further differentiate the present invention from Seabrook et al. Applicant asserts that the new claim requires the step of forming a heat resistance layer.

In view of the foregoing, many of the features of new Claim 31 are absent from Seabrook et al. As such, Applicant respectfully asserts that new Claim 31 is not anticipated by Seabrook et al.

Akao teaches a light shielding material useful for packaging. Vitamin E is added to the material but not as an antioxidant. The reference discloses antioxidants but they are to be used for the prevention of resin yellowing. Although this reference lists a variety of additives that may be added to the material in order to improve various properties, it is silent with respect to forming a heat resistance layer. Also, as stated by the Examiner, Akao does not teach a packaging material useful for liquids.

Applicant respectfully asserts that Akao does not teach a method for preventing oxidative degradation of a packing object that includes lipids or nitrous myoglobin. Although Akao refers to an antioxidant, it is not Vitamin E and it is to be used as an antioxidant for the prevention of resin yellowing. Importantly, the material of Akao is disclosed as "light-shielding" and the material of the new claim is light permeable.

Accordingly, Applicant respectfully asserts that new Claim 31 is not anticipated by Akao.

Stopper et al. discloses a stretched-filled breathable, microporous film and a method for making the same. As stated by the Examiner, Stopper et al. does not disclose its film as a packaging material. Applicant respectfully asserts that Stopper et al. does not teach a method for preventing oxidative degradation of a packaging

Application Serial No. 10/551,814
Reply to Office Action of June 25, 2008

PATENT
Docket: CU-4433

object. Stopper et al. does not disclose its film as a packaging for a food or liquid item and thus it does not teach the use of Vitamin E as an antioxidant. Moreover, the material of Stopper et al. is disclosed as stretched-filled, breathable and microporous. In contrast, the material of the new claim is not stretched-filled and it is sealable where the material of Stopper et al. is breathable.

Accordingly, Applicant respectfully asserts that new Claim 31 is not anticipated by Stopper et al.

With respect to independent Claim 28, Seabrook et al. teaches the use of Vitamin E for providing a controlled release of an antimicrobial agent. The use of Vitamin E is disclosed as controlling bacteria, viruses and fungi growth. The film of this reference is disclosed as including the antimicrobial agent and Vitamin E that can protect against microbial infestation.

Seabrook et al. does not disclose a method for preparing a sealable, light permeable material for packaging purposes. The use of the Vitamin E in Seabrook et al. is disclosed as providing a controlled release of the antimicrobial agent and not as an antioxidant as in the new claim. Moreover, Seabrook et al. is silent with respect to the steps of forming a heat resistance layer. In the Office Action, the Examiner avers to the fact that since the claims do not require a heat resistance layer, this feature cannot be relied upon to further differentiate the present invention from Seabrook et al. Applicant asserts that the amended claim requires the step of forming a heat resistance layer.

In view of the foregoing, many of the features of currently amended Claim 28 are absent from Seabrook et al. As such, Applicant respectfully asserts that Claim 28 is not anticipated by Seabrook et al.

Akao teaches a light shielding material useful for packaging. Vitamin E is added to the material but not as an antioxidant. The reference discloses antioxidants but they are to be used for the prevention of resin yellowing. Although this reference lists a variety of additives that may be added to the material in order to improve various properties, it is silent with respect to forming a heat resistance layer. Also, as stated by the Examiner, Akao does not teach a packaging material useful for liquids.

Applicant respectfully asserts that Akao does not disclose a method for preparing a sealable, light permeable material for packaging purposes. Although

Application Serial No. 10/551,814
Reply to Office Action of June 25, 2008

PATENT
Docket: CU-4433

Akao refers to an antioxidant, it is not Vitamin E. Importantly, the material of Akao is disclosed as "light-shielding" and the material of the new claim is light permeable.

Accordingly, Applicant respectfully asserts that currently amended Claim 28 is not anticipated by Akao.

Stopper et al. discloses a stretched-filled breathable, microporous film and a method for making the same. As stated by the Examiner, Stopper et al. does not disclose its film as a packaging material. Accordingly, Stopper et al. can not and does not teach or suggest a method of preparing a sealable, light permeable material for packaging purposes. Moreover, the material of Stopper et al. is disclosed as stretched-filled, breathable and microporous. In contrast, the material of the amended claim is not stretched-filled and it is sealable where the material of Stopper et al. is breathable.

Accordingly, Applicant respectfully asserts that currently amended Claim 28 is not anticipated by Stopper et al.

With respect to Claim 1, Applicant respectfully asserts that Seabrook et al. teaches the use of Vitamin E for providing a controlled release of an antimicrobial agent on a film, sheet or tubing. Applicant asserts that Seabrook et al. is silent with respect to the features of a heat resistance layer. In the Office Action, the Examiner avers to the fact that since the claims do not require a heat resistance layer, this feature cannot be relied upon to further differentiate the present invention from Seabrook et al. Applicant asserts that the amended claim requires the feature of a heat resistance layer.

In view of the foregoing, there are clearly features of amended Claim 1 that are absent from Seabrook et al. As such, Applicant respectfully asserts that amended Claim 1 is not anticipated by Seabrook et al.

Akao teaches a light shielding material useful for packaging. Vitamin E is added to the material but not as an antioxidant. Although this reference lists a variety of additives that may be added to the material in order to improve various properties, it is silent with respect to a heat resistance layer. Also, as stated by the Examiner, Akao does not teach a packaging material capable of handling liquids.

Applicant respectfully asserts that Akao does not disclose a sealable, light permeable material for packaging purposes. Importantly, the material of Akao is disclosed as "light-shielding" and the material of the amended claim is light

Application Serial No. 10/551,814
Reply to Office Action of June 25, 2008

PATENT
Docket: CU-4433

permeable.

Accordingly, Applicant respectfully asserts that amended Claim 1 is not anticipated by Akao.

Stopper et al. discloses a stretched-filled breathable, microporous film. As stated by the Examiner, Stopper et al. does not disclose its film as a packaging material. The material of Stopper et al. is disclosed as stretched-filled, breathable and microporous. In contrast, the material of the amended claim is not stretched-filled and it is sealable where the material of Stopper et al. is breathable.

Accordingly, Applicant respectfully asserts that amended Claim 1 is not anticipated by Stopper et al.

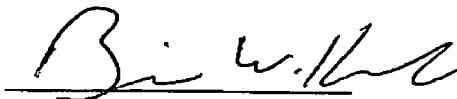
Since independent Claims 1, 28 and 31 are allowable over the prior art, Applicant asserts that all claims depending therefrom are allowable for at least the same reasons, as well as for the features that they recite. As such, Applicant respectfully requests withdrawal of the rejections under 35 U.S.C. 102(b).

In light of the foregoing response, all the outstanding objections and rejections are considered overcome. Applicant respectfully submits that this application should now be in condition for allowance and respectfully requests favorable consideration.

Respectfully submitted,

October 24, 2008

Date


Attorney for Applicant
Brian W. Hameder
c/o Ladas & Parry LLP
224 South Michigan Avenue
Chicago, Illinois 60604
(312) 427-1300
Reg. No. 45613